

Minutes of Special and Regular City Council Meeting of July 24, 2012
City Council Chambers, One Twin Pines Lane

SPECIAL MEETING

CLOSED SESSION 6:50 P.M.

- A. Conference with Labor Negotiator, Greg Scoles, under Government Code Section 54957.6: MMCEA, Belmont Firefighters IAFF Local 2400 and Fire Management Unit (FMU)
- B. Conference with Legal Counsel - Existing Litigation under Government Code Section 54956.9(a): Michele Fotinos et al v. John Fotinos et al., United States District Court, Northern District, Case No CV 12-0953 CW
- C. Conference with Legal Counsel – Anticipated Litigation - Significant exposure to litigation under Government Code Section 54956.9(b)(3)(C): (One claim) BFI Waste Systems/Allied Waste (November 8, 2011)
- D. Conference with Real Property Negotiator Scoles pursuant to Government Code Section 54956.8, for property located at 550 Island Parkway, to negotiate with Clear Channel Outdoor for lease price and terms of payment

Attended by: Councilmembers Wozniak (arr. 7:00), Warden (arr. 7:00), Braunstein, Feierbach, Lieberman, City Manager Scoles, City Attorney Rennie, Finance Director Fil, Community Development Director de Melo (Item D only). City Clerk Cook was excused from attending. Councilmember Lieberman was recused from Item D due to a potential conflict of interest.

ADJOURNMENT at this time being 7:35 P.M.

Terri Cook
City Clerk

This meeting was not tape recorded or videotaped

REGULAR MEETING

CALL TO ORDER 7:35 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Wozniak, Feierbach, Lieberman, Braunstein, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, City Attorney Rennie, Police Chief DeSmidt, Community Development Director de Melo, Finance Director Fil, Public Works Director Oskoui, Police Sergeant Halleran, City Treasurer Violet, City Clerk Cook

PLEDGE OF ALLEGIANCE

Led by Police Chief DeSmidt

REPORT FROM CLOSED SESSION

City Attorney Rennie stated that there were no reportable actions from the Closed Session held earlier.

Councilmember Lieberman announced that he did not participate in the Closed Session Item D (property negotiations with Clear Channel Outdoor) due to a potential conflict of interest. He explained that he would be seeking clarification from the Fair Political Practices Commission (FPPC) regarding his ability to participate in this matter in the future.

SPECIAL PRESENTATIONS

Recognition of Nikon Precision's ongoing support to the Belmont Police Department

Police Chief DeSmidt stated that Nikon Precision has been partnering with the Belmont Police Department for approximately ten years. He noted that the company has donated cameras three times during that time, for a cumulative value of over \$11,000. He thanked the company for its generosity and support.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Kathleen Beasley, Belmont Library Manager, stated that the Library was entering the final month of the Summer Reading Program. She outlined upcoming activities to be held at the Library.

COUNCIL/BOARD MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Braunstein thanked the Fire Department for the recent ride-along. He noted the recent passing of former Carlmont teacher and administrator, Bob Hunter, and acknowledged that he was instrumental in the annual Millard Fillmore Trivia Hunt that began nearly 50 years ago.

Mayor Warden announced that the Public Works would be hosting a forum regarding Ralston Avenue Traffic issues. He described two upcoming Movie in the Park events. He listed the eight locations of National Night Out activities on August 7th.

AGENDA AMENDMENTS

City Clerk Cook noted that a member of the public requested the removal of Consent Item 8-G (Resolution Authorizing the City of Belmont to Enter Into Lease Negotiations With Clear Channel Outdoors ("CCO") to Permit Installation of a Digital Billboard on City-owned Property Located at 550 Island Parkway, and Authorizing CCO to Submit any Required Entitlement or Permit Applications) for separate consideration.

Councilmember Feierbach noted that the record should reflect her abstention on the minutes of the Meeting of June 26, 2012, since she was not in attendance.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of June 12, 2012 (held over from July 10, 2012), Special and Regular Meeting of June 26, 2012

Motion to Authorize Support Letter Regarding Senate Bill 568 (Lowenthal) – Phase out of Polystyrene Take-out Food Containers

Approval of Resolution 2012-079 of the City Council Authorizing Acceptance of a Grant of Digital Camera Equipment Valued at \$3,237 from Nikon Precision to the Belmont Police Department

Approval of Resolution 2012-080 of the City Council Authorizing a Purchase Order to ESRI for Annual Software Maintenance and Support in an amount not to exceed \$8,700

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Feierbach, the Consent Agenda was unanimously approved, as amended, by a show of hands, with Councilmember Feierbach abstaining from the Minutes of June 26, 2012.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution of the City Council Authorizing the City of Belmont to Enter Into Lease Negotiations With Clear Channel Outdoors (“CCO”) to Permit Installation of a Digital Billboard on City-owned Property Located at 550 Island Parkway, and Authorizing CCO to Submit any Required Entitlement or Permit Applications

Councilmember Lieberman noted that as previously mentioned during the report of closed session, he has a potential conflict of interest in that he has done business in the outdoor billboard industry. Until such time as a clear ruling can be sought from the FPPC, he will be recusing himself from this matter. He stepped off the dais and out of the room.

Community Development Director de Melo explained that passage of this resolution authorizes staff to negotiate a lease, and allows the development review process to commence.

George Burgess, Belmont Chamber of Commerce, stated that digital billboards are a hazard and a distraction to drivers. He suggested that if this billboard is approved, the City of Belmont should have some authority over approval of proposed ads. He expressed concern regarding advertising of business in other cities which could drive business away from Belmont.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, Resolution 2012-081 Authorizing the City of Belmont to Enter Into Lease Negotiations With Clear Channel Outdoors (“CCO”) to Permit Installation of a Digital Billboard on City-owned Property Located at 550 Island Parkway, and Authorizing CCO to Submit any Required Entitlement or Permit Applications was unanimously approved by a show of hands (4-0, Lieberman recused).

Councilmember Lieberman returned to the dais.

OTHER BUSINESS

Discussion and Direction Regarding Real Estate Open House/Directional Signs and Window Sign Coverage – Belmont Zoning Ordinance Sections 23 and 23A

Community Development Director de Melo stated this item was intended as a followup to the new sign ordinance that was adopted in April of 2012. He explained that the real estate industry has requested to be able to place temporary signs in the right-of-way, and he noted that if allowed, it would apply to all temporary signs. He also noted that the current percentage of window coverage on commercial properties is set at 15 percent, and he noted that staff is seeking direction from the City Council as to whether the percentage should be increased. He provided examples of window coverage of various percentages, and he explained that window coverage calculation is based on the aggregate for the entire building.

Discussion ensued regarding the maximum number temporary signs allowed for real estate open house.

In response to Council questions, Community Development Director de Melo explained that some commercial signs require administrative approval, and all new signs require a permit. He pointed out that some developments, such as the Belmont Village Center and Carlmont Shopping Center, have master sign programs which are often more restrictive than the City's ordinance.

Councilmember Feierbach expressed support for increasing the maximum window coverage to 20 percent if the signs are good quality. She noted that many temporary signs are poor quality and unprofessional. She commented that the existing ordinance needs to be enforced.

Community Development Director de Melo clarified that the code enforcement program is still in transition to the Police Department.

Drew Morgan, Belmont resident/real estate agent, expressed support for increasing the number of temporary signs allowed, and for increasing the size of signs. He concurred with the prohibition of signs on sidewalks but expressed a desire to allow signs in the right-of-way if it is off the sidewalk. He noted that other structures are permitted in the right-of-way. He commented that agents are trying to sell properties.

Adele Della Santina, Belmont resident/real estate agent, stated that the ordinance is confusing. She noted that some signs are not on the sidewalk and do not pose a problem as they are not impeding foot traffic. She noted that not all streets in Belmont have sidewalks, and knowing where the right-of-way is located is a challenge. She concurred that signs should not be allowed in the median.

Councilmember Feierbach stated that real estate signs are placed on three out of seven days of the week. She thanked the agents who are obeying the ordinance, and she expressed a desire to enforce existing violations. She stated that if real estate signs are permitted in the right-of-way, all temporary signs would need to be allowed.

Councilmember Wozniak concurred that signs should not be permitted on the sidewalk. She suggested consideration for allowing signs in the right-of-way that are not impeding cars or pedestrians. She noted that amendments were made to the ordinance in response to requests by the San Mateo County Association of Realtors (SAMCAR). Regarding window signs, she concurred with the need for quality signage, and expressed support for the current ordinance.

Councilmember Braunstein stated that it is difficult to legislate quality, and that businesses need to be able to do business. He noted that many businesses are out of compliance. He stated he could support an increase in the percentage but would need more examples before defining the percentage. He suggested looking into the right-of-way issue, and expressed concern that allowing real estate signs in those areas would allow other signs to be placed. He concurred that the existing ordinance is being violated.

Councilmember Lieberman noted that most existing window signs are out of compliance with the new ordinance. He stated that he could support an increase to 20 or 25 percent of window coverage. Regarding real estate signs, he noted that there are differing levels of tolerance, and concurred that mobility should not be impeded. He stated he could support some signage on a short-term basis, and noted that all cities have issues regarding this matter. He noted that Belmont lacks sidewalks. He stated that he could support signs off the sidewalk if they are not impeding pedestrians. He commented that if an ordinance is too restrictive, it is hard to enforce.

Mayor Warden stated that if the percentage of window signage is increased, many existing signs will continue to be out of compliance. He noted that temporary signs are not an issue if they are off the sidewalk and not blocking pedestrians. He suggested enforcing egregious violations of temporary signs and window coverage, and suggested that this be done prior to raising the percentage of window sign coverage.

City Manager Scoles stated that a hierarchy of enforcement could be established. He stated that if violations are not enforced, it could result in a proliferation of signs.

City Attorney Rennie stated that City staff has the discretion to focus resources and to prioritize enforcement in order to address more egregious violations. He noted the need to address health and safety first. He clarified that window signage that existed prior to enactment of the ordinance become legal and nonconforming, and the ordinance applies only to new signs.

Community Development Director de Melo described the code enforcement sweep that was recently performed. He stated that warnings were given, and most complied, and in cases of multiple violations, citations were issued. He stated that more definitive percentages illustrating window coverage could be provided when this matter comes before the City Council in the future.

Discussion ensued.

Community Development Director de Melo suggested that the business community could be leveraged to assist with enforcement if the percentage of window coverage is increased to something they would support.

City Manager Scoles stated that some adjustments have been made in the code enforcement officer's schedule to accommodate weekend enforcement. He noted that additional personnel have been trained to assist, such as other police staff and the Community Service Officer.

Councilmember Wozniak stated that a better procedure is needed to address egregious violations.

Mayor Warden expressed a desire for additional enforcement, and noted that there is a proliferation of real estate signs on Sundays.

Councilmember Lieberman stated that he does not support spending resources to enforce violations that are not health and safety issues.

Council concurred to enforce violations that impede mobility.

Councilmember Braunstein stated that the City Council has a responsibility to address concerns and to listen to each other.

Mayor Warden stated that sign placement sometimes occurs in areas of the right-of-way which may not impede mobility. He expressed concerns regarding allowing real estate signs in these areas, as it could invite other types of signs to be placed. He concurs that there does not need to be strict enforcement if the violation is not egregious.

Public Speaker (not identified), stated that most local agents are in compliance, and he explained that 40 percent of agents doing business in Belmont are from out of the area and do not care about local regulations. He expressed a desire not to penalize the local agents.

Mayor Warden suggested additional outreach education to the real estate community outside the area.

Councilmember Lieberman suggested alternative enforcement such as issuing fines to the homeowner whose home is for sale.

Council concurred that it wants more information regarding window coverage. Council also concurred to support the minor changes in the number and size of real estate/temporary signs to allow for four directional signs with a maximum of four square feet each.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Wozniak stated that she was unable to attend the most recent Peninsula Consortium of Cities meeting, and noted that due to her personal schedule, she may have difficulty with the meeting schedule. She noted there is a need to remain vigilant regarding high speed rail activities.

Community Development Director de Melo provided an overview of the San Mateo Corridor Partnership meeting wherein the Governor's recent actions regarding high speed rail were discussed, as was the Caltrain modernization project and the options for passing tracks. He explained that the San Mateo group is likely to disband.

Verbal Report from City Manager

City Manager Scoles noted that staff continues to make progress on a paperless agenda process. He stated that the City will be seeking proposals for updating the City's website. He also noted that the City Manager's weekly update has been reformatted and will now be distributed electronically to others in the community. He explained that a draft response to the Grand Jury's report on dispatch centers will be forthcoming. He provided an update on LAFCo's (Local Agency Formation Commission) recent hearing regarding the Mosquito and Vector Control District. He clarified that despite the fact that the State legislature suspended funding of SB90

mandated costs regarding portions of the Brown Act related to Closed Session reporting, the City would not be making any changes to its procedure to report actions taken during Closed Sessions. He noted that the Parks and Recreation Commission meetings will be televised beginning with the August meeting.

ADJOURNMENT at this time, being 9:40 p.m.

Terri Cook
City Clerk

Meeting Tape Recorded and Videotaped